

New law makes various revisions and changes to the regulation of accountants and CPAs by enacting the Louisiana Accountancy Act as follows:

- (1) Provides for legislative findings and purpose.
- (2) Defines "board", "certificate", "client", "CPA firm", "good moral character", "license", "licensee", "manager", "member", "peer review", "permit", "professional", "report", "rule", "state", and "substantial equivalency" or "substantially equivalent". Defines "attest" as providing the following services:
 - (a) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards.
 - (b) Any review to be performed in accordance with the Statements on Standards for Accounting and Review Services.
 - (c) Any examination to be performed in accordance with the Statements on Standards for Attestation Engagements.
 - (d) Issuance of any report prescribed by the statements on standards on any services to which those statements on standards apply, indicating that the service was performed in accordance with standards established by the American Institute of Certified Public Accountants.
- (3) Creates the State Board of Certified Public Accountants of Louisiana within the Department of Economic Development consisting of seven members appointed by the governor all of whom are to be residents of the state and holders of valid certificates of certified public accounting. Requires the appointments to be made from a list of three or more names submitted to the governor by the Society of Louisiana Certified Public Accountants and members shall be confirmed by the Senate and serve at the pleasure of the governor and take an oath of office. Requires three members to be residents of an area comprised of specified parishes, two members to be residents of another area comprised of specified parishes, and two members appointed from the state at large. Provides for filling of vacancies, removal of members, meeting times and places, quorum requirements, retention of records, and use of a seal. Requires the governor to designate a chairman and requires the board to annually elect other officers. Allows members of the board to receive monthly compensation as fixed by the board, not to exceed \$100 per month, and allows officers to receive monthly compensation not to exceed \$150 per month. Prohibits expenses incurred by the board to be charged to or against state funds. Allows the board to employ an executive director and other personnel, and appoint committees to advise or assist with administration and enforcement, including counsel. Allows the board to sue, issue subpoenas, and invoke the aid of any court. Provides for immunity for board members from personal liability for actions taken in the discharge of their duty. Allows the board to adopt rules governing its administration and enforcement and the conduct of licensees. Allows the board to incur expenses and make affidavits for issuance of legal processes.
- (4) Requires the granting of a certificate of certified public accountant to persons of good moral character who meet the education, experience, and examination requirements and who make application to the board. Requires at least 150 semester hours of college education, including a baccalaureate or higher degree, the total education program including an accounting concentration or equivalent. Requires continuous residence in the state for not less than 120 days preceding the date of the examination.

- (5) Allows any applicant who has taken the examination prior to December 31, 1996, to remain eligible to take any examination prior to December 31, 1999, and allows that applicant to remain eligible, subject to applicable rules and regulations, to take components of the examination in order to pass all portions. Allows the board to require successful completion of a course in higher accountancy if the applicants degree or educational hours do not reflect concentration in accounting sufficient to satisfy the educational standards prescribed by the board.
- (6) Exempts applicants who have attained a baccalaureate degree prior to January 1, 1992, from the educational requirements except that the degree must meet certain requirements.
- (7) Requires that the examination be held at least twice a year and test the knowledge of the subjects of accounting, auditing, and other related subjects. Allows the board to prescribe methods for applying for and conducting examinations. Requires the board to give credit to examinations passed in another state under certain conditions. Allows the board to charge a fee for the examination.
- (8) Requires applicants to show at least one year of experience obtained within the four-year period preceding the application.
- (9) Provides that persons having held or holding a valid license as a licensed public accountant issued or renewed on or after January 1, 1998, shall be deemed to have met the requirements, provided that the license has not been revoked.
- (10) Provides that all persons, who on the effective date, have met the then-existing requirements to become CPAs, but who have not met the then-existing requirements to be licensed as a CPA, shall be presumed to have met all the requirements for obtaining a certificate without meeting the one year experience requirements. Allows such person to be granted a certificate upon furnishing satisfactory evidence of satisfying the one year experience requirement. Allows all such persons to use the designation "CPA inactive" prior to obtaining a certificate.
- (11) Requires the board to grant or renew certificates to persons who make application and demonstrate their qualifications. Provides relative to issuance and renewal. Specifies that issuance shall not preclude the board from further investigation.
- (12) Allows the holder of a certificate to only provide attest services in a CPA firm that holds a permit.
- (13) Requires the board to issue a certificate to a holder of a certificate of another state upon a showing that the applicant meets certain criteria.
- (14) Requires certificate holders to participate in a continuing education program for renewal of their certificate. Requires the board to provide for programs of learning. Allows the board to create an exception from the continuing education requirement for certain persons under certain described circumstances.
- (15) Requires the board by rule to charge a fee for initial issuance or renewal of a certificate and requires applicants to list certain information concerning applications in other states in their application in this state. Allows the board to issue a certificate to a holder of a substantially equivalent foreign designation provided certain described circumstances apply.
- (16) Requires the board to grant permits to practice as a CPA firm to entities that make application and demonstrate their qualifications. Requires a firm to hold a permit in order to provide attest services or use the title CPA. Requires applicants to show that a simple majority of the ownership of the firm belongs to holders of valid certificates. Allows CPA firms to have nonlicensee owners under certain conditions. Allows the board to charge fees and provides for procedures for issuance and renewal of permits and provisional permits. Allows the board to provide for firms falling out of compliance.

- (17) Requires any individual licensee who is responsible for supervising attest services or who signs or authorizes someone to sign the account's report on the financial statements on behalf of the firm to meet the experience requirements set on in the professional standards by the American Institute of Certified Public Accountants.
- (18) Requires applicants for a permit to register each office of the firm within the state and show that all attest services are under the charge of a person holding a valid certificate.
- (19) Requires the board to provide for regular periodic review of the reports issued by licensees for compliance with applicable generally accepted standards. Provides for exemptions from periodic review. Allows the board to adopt rules to establish a program for the scheduled inspections and to provide for reimbursement for expenses incurred in connection with the review.
- (20) Provides that all firms holding valid registration as a CPA firm on the effective date of the Act are deemed to have met the initial permit requirements.
- (21) Provides that application by an out-of-state person or firm constitutes appointment of the secretary of state as the applicant's agent for service of process.
- (22) Allows the board to revoke any certificate or permit, or suspend or refuse to renew any certificate or permit, reprimand, censure, or limit the scope of practice of a licensee, impose a fine not to exceed \$1,000, or place a licensee on probation for certain enumerated reasons.
- (23) Allows the board to investigate complaints, issue subpoenas, determine if there is probable cause to initiate proceedings, and review the publicly available professional work of licensees.
- (24) Requires the board to issue a complaint setting forth charges and conduct a hearing on those charges where probable cause with respect to a violation by a licensee has been determined by the board. Provides for procedures for the conducting of hearings and provides for the rights of the parties involved. Provides for procedures for review of any order of the board.
- (25) Provides for procedures for the reissuance and reinstatement of licenses.
- (26) Provides that only licensees may issue a report of financial statements or render any attest service and provides for exceptions. Requires attest services to be performed pursuant to statements on standards. Prohibits the use of the title "certified public accountant" or "CPA" unless the person holds a valid certificate. Prohibits the performance of attest services or use of the title "certified public accountants", "CPAs", or "firm of certified public accountants", unless the firm holds a valid permit. Prohibits the use of other enumerated terms without holding a valid certificate or permit. Prohibits the use of language in any statement relating to financial affairs which is conventionally used by licensees in reports or financial statements, unless the person is licensed. Specifies "safe harbor" language. Prohibits any person or firm from using any title or designation that implies that the person or firm holds a certificate or permit, unless the person or firm holds a valid certificate or permit and provides for exceptions. Prohibits a licensee from using a name that is misleading about the legal form of the firm or about the persons in the firm. Prohibits a holder of a certificate from performing attest services in any firm that does not hold a valid permit. Provides an exception for attorneys preparing or presenting records or documents customarily prepared by attorneys in connection with their work. Prohibits the referral of any product or service to a client for a fee or commission when the licensee also performs certain enumerated services. Allows for disclosure of commission fees in certain circumstances. Prohibits the performing of services for a contingent fee in certain enumerated circumstances.

Provides for violations and penalties. Provides for procedures for disciplinary action.

- (27) Allows the board, when it believes that a violation is occurring or is about to occur, to apply to a court for an order enjoining the practice or bring the information to the attention of the attorney general for possible criminal prosecution. Provides that a person knowingly violating the provisions is guilty of a misdemeanor subject to a fine of not more than \$500 for each violation or imprisonment for one year, or both.
- (28) Specifies that commission of a single prohibited act is sufficient to justify a penalty, injunction, restraining order, or conviction without evidence of a general course of conduct.
- (29) Provides that information derived from professional services of a licensee is confidential except under certain enumerated circumstances. Provides that a licensee is not liable for damages upon the furnishing of confidential information as required in certain circumstances.
- (30) Provides that reports and working papers made by a licensee in the course of rendering services to a client are the property of the licensee absent an expressed agreement between the parties to the contrary. Requires the licensee to furnish certain information to a client or former client upon request and reasonable notice.
- (31) Allows a licensee to be hired to conduct certain professional services for a governmental entity for which the licensee also performs other professional services as long as the independence of the licensee is not impaired and the services are performed in conformity with ethical rules.
- (32) Requires a licensee to retain certain records for at least three years after completion of the engagement. Allows for the disposal of records after three years unless the licensee receives notice of the commencement of a review panel, judicial proceeding, or ethical investigation.
- (33) Provides relative to accounting documents sent out of state by the insurance commissioner.
- (34) Specifies that all causes of action filed on or after the effective date of the Act are governed by the privity of contract provisions. Provides for certain conditions under which an action based on negligence may be brought against any licensee by any person claiming to be injured as a result of justifiable reliance on financial statements or other information provided by the licensee.
- (35) Provides relative to prescriptive and preemptive periods.
- (36) Subjects the entering of a judgment for monetary damages against a licensee by a person claiming to be injured by the licensee to the rules of proportionate liability.
- (37) Provides for the qualifying as a licensee of persons whose principal place of business is not in this state and who hold a valid certificate as a certified public accountant from any state which the board has verified to be in substantial equivalence with the licensure requirements of this Act. Provides for the qualifying as a licensee of persons who hold substantially equivalent valid certificates from another state if the person obtains from the board's designee verification that the qualifications are substantially equivalent to the requirements of this Act. Requires the licensees of another state to pay the required fees and consent to the enumerated conditions.
- (38) Requires a licensee of this state using his title in another state to be subject to the disciplinary actions of this state for any act committed in another state for which he would be subject to discipline in the other state.
- (39) Specifies that the provisions shall not apply to and the board shall not regulate any practices, services, functions, or actions performed by the legislative auditor in the discharge of the duties imposed to his office by the constitution or any statute.

Effective upon signature of the governor (June 18, 1999).

(Amends R.S. 37:71-95)